

REMARKS

In the Office Action, the Examiner noted that claims 7-15 were pending in the application; rejected claims 7-14 under 35 USC § 102(e); and rejected claim 15 under 35 USC § 103(a). In rejecting the claims, U.S. Patent 6,175,569 to Ellington, Jr. et al. (Reference E, hereinafter Ellington) was cited. Claims 7-15 remain in the case.

Prior Art Rejections

In items 2-9 on pages 2-4 of the Office Action, claims 7-14 were rejected under 35 USC § 102(e) as anticipated by Ellington and in items 10-11 on pages 4-5 of the Office Action, claim 15 was rejected under 35 USC § 103(a) as unpatentable over Ellington. In item 3 on page 2 of the Office Action, it was asserted that Fig. 1; column 5, lines 57-60 and column 6, lines 66 to column 7, line 12 of Ellington disclosed a decentralized quality of service system as recited in claim 7. Items 14-21 of the June 9, 2005 Office Action contained a Response to Arguments in the Amendment filed May 9, 2005 that Ellington did not disclose two different computers, a first computer "including an access unit used to determine predetermined quality of service features for interaction with ... [a] network" (claim 7 as previously presented, lines 2-3), where "the access unit is an autonomous device" (claim 9, lines 1-2), and "a second computer ... [which] administers the quality of service features of the access unit" (claim 7, lines 4-5).

On the Continuation Sheet of the August 22, 2005 Advisory Action, a limitation previously recited in claim 7 was subjected to a "broad interpretation" so that if "the NIC card is utilized (not necessarily makes the determination) in determining the QoS for interaction with the network" by being "used to transmit the Token Ring frame to the LAN/ATM device" then the NIC card is used to determine predetermined quality of service features for interaction with the network, as previously recited in claim 7. To avoid this "broad interpretation" of claim 7, the limitation quoted above has been amended to use words similar to those in the parenthetical expression describing what the Examiner recognized the NIC card is not, i.e., "an access unit which determines predetermined quality of service features for interaction with the network" (claim 7, lines 2-3).

As discussed in the May 9 and August 9, 2005 Amendments, Ellington does not provide any disclosure of the NIC card and thus, there is no evidence that a NIC card is "an autonomous device" (claim 9, line 2) included in the first computer (e.g., LAN station 20A) which "determine[s] predetermined quality of service features for interaction with the network" (claim 7, line 3). If the Examiner continues to rely upon a NIC card as meeting all the limitations of the access unit recited in the claims, the Examiner is respectfully requested to cite a reference describing the

operations of a NIC card or provide an affidavit of the Examiner's personal knowledge of the capabilities of a NIC card, in accordance with MPEP 2144.03(C)

The only aspect of QoS administration that Ellington assigns to a LAN station is that a "frame priority subfield is exploited to permit an originating LAN station to request ATM connections having specified QoS parameters" (column 5, lines 57-60). It is submitted that this does not require anything in the LAN stations of the system disclosed by Ellington "to determine ... quality of service features for interaction with the network." Even if such a determination is made in the LAN stations of Ellington, nothing has been cited to suggest that the determination is made in a NIC card or any other type of "autonomous device" (claim 9, line 2).

Instead of clearly describing that "quality of service features for interaction with the network" are determined in the LAN stations, as discussed in the May 9, 2005 Amendment, Ellington discloses centralized QoS administration in each of the LAN/ATM interface devices 12, 14 for a plurality of LAN stations 20A-20C and 26A-26C, respectively. According to Ellington, "[t]he invention is implemented in the LAN/ATM interface devices, such as device 50 shown in FIG. 4" (column 5, lines 60-61). The Summary of the Invention section of Ellington defines the "invention" of Ellington as "establishment of end-to-end QoS guarantees where data is being transferred from an originating LAN station through an intermediate ATM network to a destination LAN station" (column 3, line 66 to column 4, line 2). Additional description of how the LAN/ATM interface devices perform centralized administration of QoS is provided at the top of column 6 and the paragraph spanning columns 6 and 7. Nothing in the description of QoS administration in Ellington contains any suggestion of decentralized administration of QoS using an autonomous device included in a first computer which handles only the QoS features of the first computer, as recited in the claims.

For the reasons set forth above and the additional reasons related to claims 8-15 discussed in the May 9, 2005 Amendment, it is submitted that claim 7 and claims 8-15 which depend therefrom, patentably distinguish over Ellington.

Request for Examiner Interview

If the arguments set forth above do not result in withdrawal of the rejection of claims 7-15 as anticipated by or obvious from Ellington, the Examiner is respectfully requested to contact the undersigned to arrange an Examiner Interview prior to issuing the first Office Action subsequent to filing of the Request for Continued Examination (RCE) submitted herewith, for the purpose of discussing what further claim amendments would clarify the differences between the present invention and Ellington.

Summary

It is submitted that the references cited by the Examiner, taken individually or in combination, do not reach or suggest the features of the present claimed invention. Thus, it is submitted that claims 7-15 are in a condition suitable for allowance. Entry of the Amendment, reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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